



**CALIFORNIA
HEALTHCARE
ASSOCIATION**

*Providing Leadership in
Health Policy and Advocacy*

**California Healthcare Association
Statement on
The Hospital Construction Plan Review and Area Compliance Process
Before the
California Performance Review Commission
U.C. Riverside
August 13, 2004**

INTRODUCTION

Governor Arnold Schwarzenegger, California Performance Review Co-chairs Kozberg and Hauck and members of the commission,

I am C. Duane Dauner, president and chief executive officer of the California Healthcare Association (CHA), the statewide organization that represents California's hospitals. I am pleased to appear before you today to discuss California Performance Review (CPR) Infrastructure (INF) Issue 38, "Lengthy Hospital Construction Approvals Impacting Patient Care."

The CPR report is squarely on target. The lengthy process for review and approval of hospital construction and retrofitting projects is far too long. Economic growth is being thwarted; jobs are being lost; and patient safety is being compromised.

CHA supports recommendations A, B and C in INF 38. We believe that the entire process of hospital design, approval and construction can be streamlined and improved, thereby benefiting all Californians. The recommendations address major deficiencies that exist within the current hospital plan review and area compliance process. CHA stands ready to support the filing of project plans and applications that are complete and which meet code. Further, timely review and approval by state hospital building officials are essential if the goals for California as stated in the CPR report are to be achieved.

One area of concern to CHA has to do with the organizational placement of the Facilities Development Division, currently a part of the Office of Statewide Health Planning and Development (OSHPD). Based on our review of the CPR report, it is unclear under which department the Facilities Development Division would be placed. Because of its integral connection to hospital licensing activities, CHA believes that the Facilities Development

Division should be placed within the Health & Human Services Department and aligned with licensing.

BACKGROUND

Since its enactment in 1972, California hospitals have been supportive of the Hospital Facilities for Seismic Safety Act (HFSSA) because it ensured the operational safety of new or renovated hospital buildings following major seismic activity. However, the 1972 legislation “grand-fathered” existing hospital buildings to which no structural improvements were made. In the wake of the 1994 Northridge Earthquake, the Legislature amended the HFSSA to deal with this situation by requiring all existing hospital patient care buildings to meet stringent new earthquake safety standards. The 1994 legislation established two major deadlines: 1) by January 1, 2008, all hospital buildings must remain standing following a major earthquake; and 2) by January 1, 2030, all hospital buildings must remain operational after major seismic activity. CHA has conservatively estimated the cost of this unfunded seismic mandate, without financing costs, at \$24 billion. The RAND Corporation reported in 2002 that the price tag could be as high as \$41 billion without financing costs.

Hospitals – not general funds – pay for state mandated hospital reviews. Hospitals pay 1.64 percent of construction cost to the Hospital Building Fund to fund hospital plan reviews, field inspections and project approvals. There is currently an estimated \$50 million in the Hospital Building Fund. This amount of money should be more than adequate to pay for timely reviews and approvals, whether performed in-house (by the Facilities Development Division) or contracted out. The state should assure on-going access to these funds and appropriate resources to achieve timely and efficient reviews.

Based on a 2001 study by Shattuck Hammond, approximately 25 percent of California hospitals cannot comply with the seismic mandate unless they receive financial assistance. Many other hospitals that could otherwise afford to comply with the mandate are being forced to retrofit rather than rebuild, which may not be prudent, or find themselves in a position whereby they can no longer afford the mandate due to additional costs that result from the long OSHPD plan review process.

California hospital project reviews take considerably longer than reviews in other states. After examining survey data, CHA was not able to identify another state that comes close to taking as long as California takes for review and approval of hospital projects. Even allowing for seismicity, California’s review approach and length of review time, compared to other states, appears excessive.

Historically, most new construction and major retrofit projects were under review by OSHPD for about a year prior to a building permit being issued. In the past few years, however, the review process within OSHPD has grown increasingly longer. In 2002, more than 30 percent of the new

hospital construction and major renovation projects took more than a year to review. During 2003, approximately 45 percent took longer than a year. Through the first 7 months of 2004, approximately 75 percent are taking more than one year.

When considering the time it takes for OSHPD to review hospital projects, it is important to remember that every day of delay is a day that patient care is not being provided in that hospital building. Under existing state regulations, the Department of Health Services (DHS) cannot issue an operating license until OSHPD certifies that the facility meets all building codes.

In October 2003, the CHA Board of Trustees adopted recommendations on how to expedite the hospital plan review and construction process. Since then, OSHPD, designers and CHA have undertaken a number of activities including an effort to develop a series of "best practices" manuals to assist the Facilities Development Division, hospitals and designers. It is important to note that not all project delays are the fault of the Facilities Development Division. Hospital designers and engineers also need to do a better job of submitting complete project proposals.

INF 38 RECOMMENDATIONS

CHA strongly supports a 90-day initial review period for hospital plan review as recommended in INF 38. Projects must be complete and meet code when they are submitted to OSHPD. The nature of some projects (e.g. attaching a new building to different types of existing hospital buildings in a high seismic area) may require months of negotiations between the designer, a peer review team and the Facilities Development Division. Even though these projects may be complex, they must be reviewed expeditiously -- certainly in less than one and a half years.

CHA believes that INF 38 recommendations A and B, which set targets for plan review deadlines, will improve the review process and establish reasonable accountability for timely action by OSHPD. CHA concurs with INF 38 recommendation C which recommends that, at the Secretary level, a business process review be conducted by March 31, 2005, on how OSHPD hospital plan review, area compliance and inspection of hospital buildings can meet the intent of the HFSSA, while taking into consideration the state's goals for economic development and improved patient care.

CHA supports the call for a "business process review" -- for an audit or other evaluation of OSHPD's hospital review, inspection and approval procedures and performance. OSHPD's review process is so complicated and lengthy that a study and recommendations for reform are probably required in order to institutionalize significant improvements. The charge for such a study should be to measurably improve the timeliness, efficiency and consistency of reviews, to establish on-going performance reporting practices and to document achievements in patient care improvements, economic development and facility safety.

There are a number of ways that the plan review and hospital construction processes can be expedited:

- Divide Facilities Development Division projects into small, medium and large categories. Criteria would be needed to define categories. They simply could not be categorized by cost.

-Small Projects

For smaller projects, Facilities Development Division should receive a description of the project and allow a professional designer to proceed on the project within 10 working days. The project would be designed and constructed, and then certified in writing by the designer that it meets the intent of the project description and the current code.

-Medium Size Projects

The Facilities Development Division would develop a list of professional architects and engineers who are authorized to be retained by hospitals to conduct plan review and inspect projects in the field. Hospitals would retain professional designers to design the project and submit the project through the Facilities Development Division or have the option to use Facilities Development Division authorized professionals to plan review and/or approve the project through the area compliance process. Criteria would be adopted to avoid conflicts of interest.

-Large Projects

These projects would be under the Facilities Development Division's jurisdiction. For large projects, the Facilities Development Division would receive a complete set of plans to review. After 90 days, the Facilities Development Division would either deem the plans complete for review or schedule a meeting with the design team and owner's representative to determine what must be accomplished for the plans to be deemed complete. If agreement cannot be reached, there should be a fast-track appeal mechanism through the Hospital Building Safety Board (HBSB). Once a project is deemed complete, the Facilities Development Division would have 90 days to review it. Extensions for up to 90 days could be made for complex projects as defined in the regulations. The Facilities Development Division should be allowed to contract out for the review of large projects.

OSHPD should establish an audit program to ensure the quality of plan review and area compliance activities conducted by the Facilities Development Division-authorized professionals. The contracting out program will require an adjusted Facilities Development Division project fee schedule and also will require HBSB to establish a more expedient appeals mechanism than now exists.

OTHER RECOMMENDATIONS

- The Facilities Development Division should expeditiously implement a number of activities discussed with CHA to expedite plan review and reduce the cost of the seismic mandate:
 - Use Federal Emergency Management Agency 356 as an alternative means to evaluate buildings that are non-compliant with the 2008 date.
 - Modify the costly nonstructural requirements that need to be attained by 2008 for those hospital buildings that are not going to remain in operation beyond January 1, 2030.
 - Retain a supervisor over all Regional Supervisors in the Facilities Development Division North Region to enhance plan review and area compliance consistency.
- The requirements of SB 1953 (*Chapter 740, Statutes of 1994*) should be re-reviewed in light of the intent of the HFSSA, and the Act should be amended as necessary. For example, are Compliance Plans really necessary for a hospital to comply with the seismic mandate? CHA believes that Facilities Development Division staff resources spent on Compliance Plan activities can better be used in expediting plan review.
- It is essential that the Facilities Development Division functions be aligned with those of licensing in the Health and Human Services Quality Assurance Division so that the plan review, area compliance, licensing and certification processes are streamlined, seamless and efficient.
 - DHS Licensing requires assurance that it issues operating licenses to buildings built to code. Ongoing communication and coordination between Facilities Development and Licensing are essential.
 - The OSHPD structural engineering function was removed from the Division of the State Architect in 1983. An immediate improvement in hospital structural reviews was the result. Hospitals are the most complex buildings to design and plan review in the state. It is more important that hospital construction plan reviews and inspections be aligned with the Health and Human Services Quality Assurance Division to ensure coordination on issues such as infection control, decontamination units, Title 22 regulations, program flexibility requirements, Medicare Life/Safety Issues, etc.
 - The Facilities Development Division is knowledgeable in hospital code development and should maintain this function. There should be a formal relationship between the Facilities Development Division and the Infrastructure Department in the development of the California Building Standards Code and amendments to the Title 24 hospital code.

KEY CONSIDERATIONS

INF 38 recommendations respond to the key considerations as follows:

1. **Putting the People First**
Hospital projects will be processed more efficiently and in less time, thereby making hospital services available to all patients as quickly as possible. Access to hospital services will be improved and the delivery of services to patients will be enhanced through up-to-date facilities and technology.
2. **Streamlining Operations**
The new process and time frames proposed in the CPR report will improve OSHPD operations, streamline the processes of project review and approval, and more effectively utilize scarce public and private resources.
3. **Saving State Dollars**
State dollars will be saved in two ways:
 - 1) Inflation and escalating costs due to delays and red tape will be reduced, thereby saving money for the Medi-Cal program, and
 - 2) The number of state employees can be managed with the proper balance of consultants, all of which are paid for by the hospitals.
4. **Other Issues**
Implementation will not be difficult. The CPR recommendations can be adopted and made operational without time delays or costly conversion steps.

By aligning the current OSHPD Facilities Development Division and DHS licensing functions, the entire process of plan review and approval, construction and licensure will be streamlined and more efficient. The operational changes required can be directed by the proposed Health and Human Services Department.

CONCLUSION

California hospitals fall into three general categories with respect to hospital construction, retrofitting and mandated seismic compliance. They are:

- 1) Hospitals that have arranged for financing and are in the plan development, plan review and/or construction processes. Many are delayed because of OSHPD's time-consuming review process and backlog problems.

- 2) Hospitals that can obtain reasonable financing but require more time to complete their projects than is allowed under current law and regulations.
- 3) Hospitals that do not have the financial strength to fund retrofitting/construction projects to comply with the deadlines, and could not repay loans if the money was made available even on a low interest basis.

Obviously, there are some hospitals that may fall near the edge of one of the categories, or between them. In summary, the following statements are indicative of the situation in California:

1. California has the most stringent hospital construction laws in the nation.
2. The OSHPD review process causes unnecessary delays, higher costs and operational problems than should exist.
3. Some architects and engineers submit incomplete or non-compliant plans, thereby exacerbating the delays and increasing costs.
4. Many hospital projects are being unreasonably delayed, consequently costing jobs and thwarting economic growth in California.
5. Numerous hospital projects require more time for completion than the existing 2008 deadline allows in order to achieve financial feasibility.
6. Up to one-fourth of California's hospitals cannot comply with the seismic law without financial support in the form of grants.
7. Some hospitals require low interest loans to make their projects feasible.
8. There are currently more than \$5 billion in hospital construction projects that are in the OSHPD review process. CHA projects that this could increase by an additional \$12 billion over the next 5 years.
9. Streamlining the project review, monitoring and approval processes is essential. A key component of this is allowing OSHPD to contract out more work.
10. The state hospital building official function should be located in the Health and Human Services Department and aligned with the hospital licensing and certification functions.
11. Due to its expertise in hospital construction, the Facilities Development Division should remain responsible for developing amendments to Title 24 in conjunction with the

HBSB. There should be a formal linkage with the Infrastructure Department which should have responsibility for all building code adoption.

CHA appreciates the CPR recommendations in INF 38 and believes that placing the Facilities Development Division within the Health and Human Services Quality Assurance Division and the implementation of recommendations A, B and C will make significant improvements in the hospital plan review and construction process.

Thank you for the opportunity to comment on this important component of California's infrastructure.

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